

**Tountas Meat Packing, Inc. d/b/a Ozark Packing and Teamsters Local Union 245, affiliated with the International Brotherhood of Teamsters, AFL-CIO.** Cases 17-CA-14886, 17-CA-15002, 17-CA-15091, and 17-CA-15274

August 31, 1992

# SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND  
RAUDABAUGH

On June 3, 1991, the National Labor Relations Board issued an unpublished Decision and Order, *inter alia*, ordering Tountas Meat Packing, Inc. d/b/a Ozark Packing to make whole certain of its unit employees for loss of earnings and other benefits resulting from their discharges in violation of the National Labor Relations Act. On March 23, 1992, the United States Court of Appeals for the Eighth Circuit enforced the Board's Order in its entirety.

A controversy having arisen over the amount of backpay due discriminatees, on June 16, 1992, the Regional Director for Region 7 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.<sup>1</sup>

By letter dated July 13, 1992, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by close of business July 20, 1992, summary judgment would be sought. The Respondent filed no answer.

On August 7, 1992, the General Counsel filed with the Board a Motion to Transfer Proceeding to the Board and for Summary Judgment, with exhibits attached. On August 11, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allega-

tions in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

## Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent to the discriminatees.

## ORDER

The National Labor Relations Board orders that the Respondent, Tountas Meat Packing, Inc. d/b/a Ozark Packing, Pleasant Hope, Missouri, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Percy Brandt	\$3,427.32
Robert Groen	1,043.65
Delbert Scott Mincks	3,191.93
Carolyn Smith	3,170.08
Jimmy Blanton	1,856.46
Jerry Lee	1,248.21
Juan Perez	158.29
Bobbie Brollier	2.51
Glen Johnston	66.62
Alejandro Navarro	503.52
Roger Seippel	1,348.17
Elaine Hood	63.32
John McGowin	54.35

<sup>1</sup>The Motion for Summary Judgment states that the Respondent was administratively dissolved by the Secretary of State for the State of Missouri effective December 31, 1991. The compliance specification was served on the Respondent at its last known place of business and was returned to the Regional Office—"Returned to sender—undeliverable as addressed—No forwarding order on file." Copies of the specification were also served by certified mail on Nick Tountas, president of the Respondent and Gus Tountas, secretary of the Respondent, at their addresses. A return receipt was received by the Regional Office from Gus Tountas. The specification sent to Nick Tountas was returned as unclaimed. We find that service on the corporate secretary in the circumstances here is adequate service. Moreover, the Respondent's failure to provide for receipt of properly served documents cannot serve to defeat the purposes of the Act. See *Michigan Expediting Service*, 282 NLRB 210 fn. 6 (1986).

Jesus Castro	561.47	Joel Prado	451.44
Ismael Cruz	46.36	Gullermina Reyes	314.65
Armondo Faz	816.15	Jose Villagomes	418.20
Bernardino Mendez	154.75	Vanancio Palacios	240.00
Pedro Castilleja	653.63	Fortino Hernandez	298.20
Brenda Evans	24.83		